

2017 DRAFTING REQUEST**Bill**

For: **Robin Vos (608) 266-9171** Drafter: **chanaman**

By: Secondary Drafters:

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Same as LRB:

Submit via email: **YES**

Requester's email: **Rep.Vos@legis.wisconsin.gov**

Carbon copy (CC) to: **Alicia.Schweitzer@legis.wisconsin.gov**
steve.fawcett@legis.wisconsin.gov
abbey.fabick@legis.wisconsin.gov
tad.ottman@legis.wisconsin.gov
dan.romportl@legis.wisconsin.gov

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Topic:

Bill #2

Instructions:

See attached

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/?	chanaman 11/29/2018				
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State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-6071/P1

ALL

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*legislative powers and duties,
state agency and authority
composition and operations,
and administrative rulemaking
process.*

1 **AN ACT ...; relating to:** gifts and grants appropriations of the Department of
2 Justice; eliminating the Office of Solicitor General in the Department of
3 Justice; notice to the legislature of claims relating to constitutionality or
4 enforceability of statutes and right of the legislature to intervene and state
5 settlement moneys and the settlement authority of the attorney general;
6 retaining outside legal representation for legislators and legislative staff; the
7 advice and consent of the senate; approval of security changes at the capitol by
8 the Joint Committee on Legislative Organization; transfers of the
9 unencumbered balance of certain appropriations; biennial reports regarding
10 fees charged by executive state agencies; repayment of principal on public,
11 short-term, general obligation debt; membership of and appointments to the
12 Group Insurance Board; certain grants under the municipal flood control and
13 riparian restoration program; an annual report on the administration of the
14 information technology and communication services self-funded portal; the
15 board of directors and chief executive officer of the Wisconsin Economic

1 Development Corporation; leasing office space for legislative offices or
2 legislative service agencies; state agency submission of quarterly reports on
3 state operations expenditures to the Joint Committee on Finance; designation
4 of new enterprise zones; report regarding individuals who are pardoned or who
5 are released from prison before completing their sentence; gubernatorial
6 approval requirements for administrative rules; agency publications;
7 independent retrospective economic impact analyses of rules; presumptions
8 regarding the validity of administrative rules; fiscal estimates and economic
9 impact analyses for proposed administrative rules; rule-making authority for
10 federal compliance plans; suspension of administrative rules by the Joint
11 Committee for Review of Administrative Rules; the final decision of an agency
12 in a contested case proceeding; codifying administrative code provisions related
13 to voter identification.

Analysis by the Legislative Reference Bureau

*** ANALYSIS FROM -6067/P1 *** - 1

This bill changes the Department of Justice gifts and grants appropriations from continuing appropriations to annual appropriations.

*** ANALYSIS FROM -6007/P1 *** 2

This bill eliminates the power of the attorney general to appoint a solicitor general and up to three deputy solicitors general, each of whom must be licensed to practice law in this state. The effect of the bill is to eliminate the Office of the Solicitor General in the Department of Justice, which represents the state in certain cases on appeal in state and federal courts.

*** ANALYSIS FROM -6021/P8 *** 3

Notice to legislature of claims relating to constitutionality of statutes; legislative intervention

This bill requires a party that alleges that a statute is unconstitutional, or in violation of or preempted by federal law, to serve the speaker of the assembly, the president of the senate, and the senate majority leader with a copy of the proceeding. The bill also requires that, in such cases, the assembly, the senate, and the Joint Committee on Legislative Organization (JCLO) are entitled to be heard, representing the legislature and the state.

Under current law, if a statute, ordinance, or franchise is alleged to be unconstitutional, the attorney general must be served with a copy of the proceeding and be entitled to be heard. This requirement exists in the statutes for declaratory judgment acts under s. 806.04 (11). The Wisconsin Supreme Court has also extended the requirement to other types of actions involving claims that a statute is unconstitutional. See *Kurtz v. City of Waukesha*, 91 Wis. 2d 103, 280 N.W.2d 757 (1979). This bill incorporates the *Kurtz* rule into the statutes and extends both the current statutory and *Kurtz* requirements of service and an opportunity to be heard to the legislature when a statute is alleged to be unconstitutional or in violation of or preempted by federal law.

The bill also provides that when a party challenges the constitutionality of a statute, facially or as applied, or challenges a statute as violating or preempted by federal law, as part of a claim or affirmative defense, the assembly, the senate, and JCLO have the right at any time to intervene and participate in the action and may also retain legal counsel other than the Department of Justice. Under the bill, the Committee on Assembly Organization may intervene in the action, as well as obtain legal counsel, on behalf of the assembly; the Committee on Senate Organization may intervene in the action, as well as obtain legal counsel, on behalf of the senate; and JCLO may intervene in the action, as well as obtain legal counsel, on behalf of the state. If JCLO determines that the interests of the state will be best represented by special counsel appointed by the legislature, JCLO must appoint special counsel to represent the state defendants and act instead of the attorney general. In these circumstances, special counsel has the powers of the attorney general with respect to the litigation to which special counsel has been appointed.

State settlement moneys and settlement authority of attorney general

Under current law, DOJ deposits settlement funds that are not committed under the terms of the settlement into a DOJ appropriation and may spend the funds only after submitting a plan for the expenditure to the Joint Committee on Finance for passive review. If JCF does not schedule a meeting to review the proposed plan within 14 days, DOJ may expend the funds as provided in the plan. This bill requires that DOJ must deposit all settlement funds into the general fund. This bill also lapses all unencumbered settlement funds that are currently in the DOJ appropriation into the general fund.

Current law allows the attorney general to compromise or discontinue an action DOJ is prosecuting if the governor approves the compromise or discontinuance. This bill requires JCF to approve the compromise or discontinuance instead of the governor. Current law allows the attorney general to settle and compromise actions in which the attorney general is appearing for and defending the state as the attorney general determines to be in the best interest of the state. This bill requires that, if the action is for injunctive relief or there is a proposed consent decree, the attorney general must submit the settlement or compromise plan to JCF for passive review. If JCF does not schedule a meeting to review the plan within 14 days, the attorney general may proceed, but, if JCF does schedule a meeting, the attorney general may proceed only with the approval of JCF.

The bill further provides that the attorney general may not submit a proposed settlement plan to JCF in which the plan concedes the unconstitutionality or other invalidity of a statute without the approval of JCLO.

*** ANALYSIS FROM -6028/P2 ***

Currently, representatives to the assembly and senators, as well as legislative employees, may receive legal representation from the Department of Justice in most legal proceedings. Assembly and senate policies and practices also allow legislators and legislative employees to retain outside legal counsel in some instances.

With respect to the assembly, the bill provides that the speaker of the assembly may authorize a representative to the assembly or assembly employee who requires legal representation to obtain outside legal counsel if the acts or allegations underlying the action are arguably within the scope of the representative's or employee's duties. The speaker may also obtain outside legal counsel in any action in which the assembly is a party or in which the interests of the assembly are affected, as determined by the speaker.

With respect to the senate, the bill provides that the senate majority leader may authorize a senator or senate employee who requires legal representation to obtain outside legal counsel if the acts or allegations underlying the action are arguably within the scope of the senator's or employee's duties. The majority leader may also obtain outside legal counsel in any action in which the senate is a party or in which the interests of the senate are affected, as determined by the majority leader.

Finally, the bill provides that the cochairpersons of the Joint Committee on Legislative Organization may authorize a legislative service agency employee who requires legal representation to obtain outside legal counsel if the acts or allegations underlying the action are arguably within the scope of the employee's duties. The cochairpersons may also obtain outside legal counsel in any action in which the legislature is a party or in which the interests of the legislature are affected, as determined by the cochairpersons.

*** ANALYSIS FROM -6049/P1 ***

The bill provides that any individual nominated by the governor or another state officer or agency, and with the advice and consent of the senate appointed, to any office or position may not hold the office or position, be nominated again for the office or position, or perform any duties of the office or position during the legislative session biennium if the individual's confirmation for the office or position is rejected by the senate. Currently, there is no prohibition against the governor or another state officer or agency nominating the individual again for the office or position or appointing the individual to the office or position as a provisional appointment.

*** ANALYSIS FROM -6059/P1 ***

This bill requires the Department of Administration to submit any proposed changes to security at the capitol, including the posting of a firearm restriction, to the Joint Committee on Legislative Organization for approval under passive review.

*** ANALYSIS FROM -5986/P2 ***

This bill requires the Department of Veterans Affairs to submit to the Joint Committee on Finance a notification of any transfers of funds from the unencumbered balance of certain appropriations for veterans homes to the veterans

trust fund or the veterans mortgage loan repayment fund. Current law allows those transfers to be made without any notification.

*** ANALYSIS FROM -5989/P1 *** 9

Under current law, no later than September 15 of each even-numbered year, each executive state agency must file with the Department of Administration the agency's budget request for the succeeding biennium. This bill requires each agency to include with its biennial budget request a report that lists each fee the agency is authorized to charge. The report must also include the following:

1. The amount of each fee or the method of calculating the fee if there is no fixed amount.
2. An identification of the agency's statutory authority to charge each fee.
3. A statement whether or not the agency currently charges the fee.
4. A description of whether and how each fee has changed over time.
5. Any recommendation the agency has concerning each fee.

The bill defines "fee" as any amount of money other than a tax that an agency charges a person other than a governmental entity.

*** ANALYSIS FROM -5998/P1 *** 10

This bill requires the Building Commission to establish an amortization schedule for each short-term, general obligation debt authorized by the commission. The amortization schedule must provide that a portion of the principal amount of the debt is retired annually over the life of the improvement or asset to which the debt is related. An amortization schedule established as required under the bill may not be modified except as authorized by the Joint Committee on Finance under passive review.

*** ANALYSIS FROM -5995/P1 *** 11

This bill increases the size of the Group Insurance Board by four members. The new members are appointed, respectively, by the speaker of the assembly, the assembly minority leader, the senate majority leader, and the senate minority leader. The bill also provides that the six members appointed by the governor for two-year terms are subject to senate confirmation.

*** ANALYSIS FROM -6065/P2 *** 12

Under current law, the Department of Natural Resources administers the municipal flood control and riparian restoration program, which provides grants that pay a portion of the costs of facilities and structures for the collection and transmission of storm water, including the purchase of flowage and conservation easements on lands within floodways, and of floodproofing public and private structures located in the 100-year floodplain. Current law requires DNR to promulgate rules specifying eligibility criteria for projects and for determining which projects will receive financial assistance. However, under current law, during the 2017-19 fiscal biennium, DNR must consider an applicant to be eligible for such a grant if the project is funded or executed in whole or in part by the U.S. Army Corps of Engineers' small flood control projects program, and DNR must provide such an applicant with a cost-sharing grant not to exceed \$14,600,000. This bill extends this requirement to the 2019-21 biennium as well.

*** ANALYSIS FROM -6006/P1 *** 13

Under current law, the Department of Administration contracts with a vendor to provide web-based technology services through a web portal to state agencies, state authorities, units of the federal government, local governmental units, tribal schools, individuals, and entities in the private sector. Revenue received from the fees charged for certain services provided through the self-funded web portal is disbursed as payment to the vendor.

This bill requires DOA to submit to the Joint Committee on Finance and the legislature by October 1 of each year a report on the administration of the self-funded portal. The report must include the following information: 1) a financial statement of state revenues and expenditures; 2) a list of services available; 3) fees charged for each service; 4) the activity level of each service; and 5) any other information that DOA determines is appropriate to include.

*** ANALYSIS FROM -6012/P6 *** 14

Under current law, the board of directors of the Wisconsin Economic Development Corporation consists of 12 members as follows:

1. Six members are appointed by the governor subject to senate confirmation, to serve at the pleasure of the governor.

2. Three members are appointed by the speaker of the assembly, consisting of one majority and one minority party representative to the assembly and one person employed in the private sector, all of whom serve at the speaker's pleasure.

3. Three members are appointed by the senate majority leader, consisting of one majority and one minority party senator and one person employed in the private sector, all of whom serve at the majority leader's pleasure.

Under this bill, the board consists of 18 members. The speaker of the assembly and the senate majority leader each appoint five members to the board, and the appointees need not be members of the legislature nor employed in the private sector. Also, under the bill, the minority leader of each house appoints one member to the board. The membership appointed by the governor remains unchanged.

The bill further provides that the chief executive officer of WEDC is appointed by the board of directors of WEDC and serves at the pleasure of the board. Currently, the governor appoints the CEO.

*** ANALYSIS FROM -6027/P1 *** 15

Current law requires the Department of Administration, at the direction of the Joint Committee on Legislative Organization, to lease or acquire office space for legislative offices or legislative service agencies. This bill requires instead that the cochairpersons of JCLO lease or acquire office space for legislative offices or legislative services agencies.

*** ANALYSIS FROM -6038/P2 *** 16

This bill requires all executive branch state agencies, other than the Board of Regents of the University of Wisconsin System, to submit a quarterly report to the Joint Committee on Finance listing all state agency expenditures for state operations in the preceding calendar quarter. The report must specifically detail all expenditures for administrative supplies and services that are made at the discretion of or to be used by heads of state agencies, secretaries, deputy secretaries, assistant deputy secretaries, and executive assistants. Under the bill, "state

However the governor appoints four members

but

voting

12 voting

three

three

operations" means all agency expenditures except aids to individuals and organizations and local assistance.

*** ANALYSIS FROM -6050/P2 *** 17

This bill requires that the Wisconsin Economic Development Corporation obtain approval from the Joint Committee on Finance under passive review before WEDC designates a new enterprise zone under the enterprise zone tax credit program. The bill also eliminates any restriction on the number of enterprise zones WEDC may designate. Currently, WEDC may not designate more than 30 enterprise zones.

*** ANALYSIS FROM -6037/P2 *** 18

This bill requires the Department of Corrections to submit a report to the legislature upon request, and to post the report on its website, regarding individuals who, since the previous report or during a date range specified in the request, were pardoned or released from imprisonment before completing their sentences. The report must identify each individual by name, include the crime for which he or she was convicted, and provide the name of the person who pardoned the individual or authorized the early release. If an individual appears on a report requested under this bill and is subsequently convicted of a crime, this bill requires DOC to report also the name of that individual and the crime.

*** ANALYSIS FROM -5979/P1 *** 19

Generally, under current law, an agency planning to promulgate an administrative rule, including an emergency rule, must first prepare a statement of the scope of the proposed rule (scope statement). A scope statement must be submitted to the Department of Administration for a determination as to whether the agency has the explicit authority to promulgate the rule as proposed in the scope statement. DOA must then report the statement and its determination to the governor who, in his or her discretion, may approve or reject the scope statement. Also under current law, after a proposed administrative rule, including an emergency rule, is in final draft form, the agency promulgating the proposed rule must submit the proposed rule to the governor, who may approve or reject the proposed rule. No agency may promulgate an administrative rule without the written approval of the governor.

In *Coyne v. Walker*, 2016 WI 38, the Wisconsin Supreme Court held that provisions requiring gubernatorial approval of scope statements and rules are unconstitutional as applied to the superintendent of public instruction.

Consistent with the result in *Coyne*, this bill exempts rules promulgated by the Department of Public Instruction from the requirements that a) a scope statement be submitted to DOA for a determination of authority and that the scope statement be approved by the governor and b) a proposed rule in final draft form be submitted to the governor and that the governor approve the rule in writing.

*** ANALYSIS FROM -5982/P2 *** 20

This bill requires a state agency to provide a statutory or administrative rule citation for any statement or interpretation of law that the agency provides in its informational materials.

*** ANALYSIS FROM -5983/P1 *** 21

This bill allows the legislature to request an independent retrospective economic impact analysis (EIA) for a rule.

Under current law, either cochairperson of the Joint Committee for Review of Administrative Rules may request an independent EIA for a proposed rule after an agency submits its EIA for that proposed rule. Such a request by the senate cochairperson of JCRAR requires approval by the Committee on Senate Organization, and a request by the assembly cochairperson requires approval by the Committee on Assembly Organization. Current law requires the requester to enter into a contract to perform the independent EIA, and requires the analysis to be completed within 60 days after entering into the contract. Under current law, an independent EIA is paid for by the agency if the independent EIA's cost estimate for the proposed rule varies by 15 percent or more from the agency's EIA, and is paid for by the legislature if the independent EIA's cost estimate for the proposed rule varies by less than 15 percent from the agency's EIA.

Also under current law, either cochairperson of JCRAR may request an agency to conduct a retrospective EIA for existing rules, which must contain certain information and analysis about the economic impact of the agency's existing rules. This bill allows either cochairperson of JCRAR to request an independent retrospective EIA for a rule within 90 days after an agency submits a retrospective EIA for the rule. The bill specifies that a request for an independent retrospective EIA for a rule follows the same procedure and payment method as a request for an independent EIA for a proposed rule.

*** ANALYSIS FROM -6023/P1 ***

Under current law, as the final step of the administrative rule process, an agency must file a certified copy of a rule with the Legislative Reference Bureau for publication. Filing a certified copy of a rule with the LRB creates a number of presumptions, including that the rule was duly promulgated by the agency and that all of the required rule-making procedures were complied with.

This bill eliminates the statutory presumptions that a rule was "duly" promulgated by the agency and that all of the required rule-making procedures were complied with.

*** ANALYSIS FROM -6031/P1 ***

Under current law, a state agency must prepare a fiscal estimate for each proposed rule, which must describe the fiscal effect of the proposed rule on local governmental fiscal liabilities and revenues, the fiscal effect of the proposed rule on state government, and, for rules that the agency determines may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by the private sector in complying with the rule. Also under current law, the agency must prepare an economic impact analysis for a proposed rule, which must contain certain specified information on the economic effect of the proposed rule on specific businesses, business sectors, public utility ratepayers, local governmental units, and the state's economy as a whole, as well as certain other information regarding the economic impact of the proposed rule.

This bill specifically requires an economic impact analysis for a proposed rule to be prepared and submitted separately from the fiscal estimate for the proposed rule.

*** ANALYSIS FROM -6036/P1 *** 24

This bill provides that a plan submitted by an agency to the federal government for the purpose of complying with federal law (compliance plan) does not confer rule-making authority and cannot be used by an agency as authority to promulgate rules. The bill provides that no agency may agree to promulgate a rule as a component of a compliance plan unless the agency has explicit statutory authority to promulgate the rule at the time the compliance plan is submitted to the federal government.

*** ANALYSIS FROM -6047/P1 *** 25

Under current law, administrative rules that are in effect may be temporarily suspended by the Joint Committee for Review of Administrative Rules. If JCRAR suspends a rule, JCRAR must introduce bills in each house of the legislature to make the suspension permanent. If neither bill to support the suspension is ultimately enacted, the rule may remain in effect and JCRAR may not suspend the rule again.

This bill provides that JCRAR may suspend a rule multiple times.

*** ANALYSIS FROM -6048/P1 *** 26

Under current law, an agency may, by rule or by an order in a particular case, specify that the decision of a hearing examiner who conducts a hearing in a contested case proceeding is the final decision of the agency. This bill prohibits an agency from delegating the authority to issue a final decision in a contested case to a hearing examiner. This bill also requires that all final decisions of an agency must be approved, signed, and dated by the secretary of the agency.

*** ANALYSIS FROM -6052/P2 *** 27

Under current law, an applicant for a driver's license or identification card must provide to the Department of Transportation 1) an identification document that includes either the applicant's photograph or both the applicant's full legal name and date of birth; 2) documentation showing the applicant's date of birth, which may be the same as item 1; 3) proof of the applicant's social security number or verification that the applicant is not eligible for a social security number; 4) documentation showing the applicant's name and address of principal residence; and 5) documentary proof that the applicant is a U.S. citizen or is otherwise lawfully present in the United States.

In 2015 and 2017, DOT promulgated rules, the first establishing and the second modifying, a procedure by which persons requesting free identification cards for the purpose of voter identification could receive these cards despite being unable to provide required documentary proof. In general, the procedure requires an applicant to provide DOT with either 1) the applicant's full legal name, date of birth, place of birth, and any other birth record information requested by DOT; or 2) the applicant's alien or U.S. citizenship and immigration service number or U.S. citizenship certificate number. DOT then shares this information with the Department of Health Services or the federal government for the purpose of verifying the applicant's identity. In general, a person may receive a voter identification card under this

procedure if either DHS or the federal government verifies the person's identity or if DOT receives acceptable alternate documentation. This bill incorporates this verification procedure into the statutes.

DOT's 2017 rule also provided a procedure by which an applicant for an identification card could obtain a card with a name other than the name that appears on the applicant's supporting documentation. The bill also incorporates this procedure into the statutes.

Under current law, an unexpired identification card issued by an accredited university or college in this state may be used as identification for voting purposes if it contains a photograph and the signature of the person to whom it was issued, it expires no later than two years after the date of issuance, and the person establishes that he or she is enrolled as a student at the university or college on election day. The Government Accountability Board (now the Elections Commission) promulgated a rule to clarify that an identification card issued by a technical college that is governed by this state's technical college system may be used for voting purposes. The bill codifies the rule.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 5.02 (6m) (f) of the statutes is amended to read:

5.02 **(6m)** (f) An unexpired identification card issued by a university or college in this state that is accredited, as defined in s. 39.30 (1) (d), or by a technical college in this state that is a member of and governed by the technical college system under ch. 38, that contains the date of issuance and signature of the individual to whom it is issued and that contains an expiration date indicating that the card expires no later than 2 years after the date of issuance if the individual establishes that he or she is enrolled as a student at the university or college on the date that the card is presented.

SECTION 2. 13.103 of the statutes is created to read:

13.103 Joint committee on finance; state operations expenditures report. (1) In this section:

1 (a) "State agency" means any office, department, or independent agency in the
2 executive branch of state government, other than the Board of Regents of the
3 University of Wisconsin System.

4 (b) "State operations" means all purposes except aids to individuals and
5 organizations and local assistance.

6 (2) Quarterly, beginning in January 2019, each state agency shall submit a
7 report to the joint committee on finance listing all state agency expenditures for state
8 operations in the preceding calendar quarter. The report shall specifically detail all
9 expenditures for administrative supplies and services that are made at the
10 discretion of or to be used by heads of state agencies, secretaries, deputy secretaries,
11 assistant deputy secretaries, and executive assistants.

12 **SECTION 3.** 13.124 of the statutes is created to read:

13 **13.124 Legal representation.** (1) (a) The speaker of the assembly, in his or
14 her sole discretion, may authorize a representative to the assembly or assembly
15 employee who requires legal representation to obtain legal counsel other than from
16 the department of justice, with the cost of representation paid from the appropriation
17 under s. 20.765 (1) (a), if the acts or allegations underlying the action are arguably
18 within the scope of the representative's or employee's duties. The speaker shall
19 approve all financial costs and terms of representation.

20 (b) The speaker of the assembly, in his or her sole discretion, may obtain legal
21 counsel other than from the department of justice, with the cost of representation
22 paid from the appropriation under s. 20.765 (1) (a), in any action in which the
23 assembly is a party or in which the interests of the assembly are affected, as
24 determined by the speaker. The speaker shall approve all financial costs and terms
25 of representation.

1 (2) (a) The senate majority leader, in his or her sole discretion, may authorize
2 a senator or senate employee who requires legal representation to obtain legal
3 counsel other than from the department of justice, with the cost of representation
4 paid from the appropriation under s. 20.765 (1) (b), if the acts or allegations
5 underlying the action are arguably within the scope of the senator's or employee's
6 duties. The senate majority leader shall approve all financial costs and terms of
7 representation.

8 (b) The senate majority leader, in his or her sole discretion, may obtain legal
9 counsel other than from the department of justice, with the cost of representation
10 paid from the appropriation under s. 20.765 (1) (b), in any action in which the senate
11 is a party or in which the interests of the senate are affected, as determined by the
12 senate majority leader. The senate majority leader shall approve all financial costs
13 and terms of representation.

14 (3) (a) The cochairpersons of the joint committee on legislative organization,
15 in their sole discretion, may authorize an employee of a legislative service agency, as
16 defined in s. 13.90 (1m) (a), who requires legal representation to obtain legal counsel
17 other than from the department of justice, with the cost of representation paid from
18 the appropriation under s. 20.765 (1) (a) or (b), as determined by the cochairpersons,
19 if the acts or allegations underlying the action are arguably within the scope of the
20 employee's duties. The cochairpersons shall approve all financial costs and terms of
21 representation.

22 (b) The cochairpersons of the joint committee on legislative organization, in
23 their sole discretion, may obtain legal counsel other than from the department of
24 justice, with the cost of representation paid from the appropriation under s. 20.765
25 (1) (a) or (b), as determined by the cochairpersons, in any action in which the

1 legislature is a party or in which the interests of the legislature are affected, as
2 determined by the cochairpersons. The cochairpersons shall approve all financial
3 costs and terms of representation.

4 **SECTION 4.** 13.127 of the statutes is created to read:

5 **13.127 Advice and consent of the senate.** Any individual nominated by the
6 governor or another state officer or agency, and with the advice and consent of the
7 senate appointed, to any office or position may not hold the office or position, be
8 nominated again for the office or position, or perform any duties of the office or
9 position during the legislative session biennium if the individual's confirmation for
10 the office or position is rejected by the senate.

11 **SECTION 5.** 13.365 of the statutes is created to read:

12 **13.365 Intervention.** Pursuant to s. 803.09 (2m), when a party to an action
13 challenges in state or federal court the constitutionality of a statute, facially or as
14 applied, or challenges a statute as violating or preempted by federal law, as part of
15 a claim or affirmative defense:

16 (1) The committee on assembly organization may intervene at any time in the
17 action on behalf of the assembly. The committee on assembly organization may
18 obtain legal counsel other than from the department of justice, with the cost of
19 representation paid from the appropriation under s. 20.765 (1) (a), to represent the
20 assembly in any action in which the assembly intervenes.

21 (2) The committee on senate organization may intervene at any time in the
22 action on behalf of the senate. The committee on senate organization may obtain
23 legal counsel other than from the department of justice, with the cost of
24 representation paid from the appropriation under s. 20.765 (1) (b), to represent the
25 senate in any action in which the senate intervenes.

1 (3) The joint committee on legislative organization may intervene at any time
2 in the action on behalf of the state. The joint committee on legislative organization
3 may obtain legal counsel other than from the department of justice, with the cost of
4 representation paid from the appropriation under s. 20.765 (1) (a) or (b), as
5 determined by the cochairpersons, to represent the state in any action in which the
6 joint committee on legislative organization intervenes.

7 **SECTION 6.** 13.48 (24m) of the statutes is created to read:

8 13.48 (24m) REPAYMENT OF PRINCIPAL ON SHORT-TERM COMMERCIAL PAPER. (a)
9 *Definition.* In this subsection, “commercial paper program” means a program
10 authorized by the building commission for the issuance of short-term, general
11 obligation debt in lieu of long-term, general obligation debt.

12 (b) *Amortization schedule required.* For each commercial paper program, the
13 building commission shall establish an amortization schedule for the repayment of
14 principal on debt issued under the program so that a portion of the principal amount
15 of each debt is retired annually over the life of the improvement or asset to which the
16 debt is related. The commission shall provide each amortization schedule
17 established under this paragraph to the joint committee on finance.

18 (c) *Schedule modification.* An amortization schedule established under par. (b)
19 may not be modified except as follows:

20 1. Before the building commission modifies the amortization schedule, the
21 commission shall notify the joint committee on finance in writing of the commission’s
22 intention to modify the amortization schedule. The notice shall describe each
23 modification and the reasons for making the modification.

24 2. If, within 14 working days after the date of the building commission’s notice
25 under subd. 1., the cochairpersons of the joint committee on finance do not notify the

1 commission that the committee has scheduled a meeting to review the commission's
2 proposal, the commission may make each modification as proposed in the notice. If,
3 within 14 working days after the date of the commission's notice under subd. 1., the
4 cochairpersons of the committee notify the commission that the committee has
5 scheduled a meeting to review the commission's proposal, the commission may make
6 each proposed modification only upon approval of the committee.

7 **SECTION 7.** 13.56 (2) of the statutes is amended to read:

8 13.56 (2) PARTICIPATION IN CERTAIN PROCEEDINGS. The cochairpersons of the joint
9 committee for review of administrative rules or their designated agents shall accept
10 service made under ss. 227.40 (5) and 806.04 (11). If the committee determines that
11 the legislature should be represented in the proceeding, it shall request the joint
12 committee on legislative organization to designate the legislature's representative
13 for intervene in the proceeding as provided under s. 806.04 (11). The costs of
14 participation in the proceeding shall be paid equally from the appropriations under
15 s. 20.765 (1) (a) and (b), except that such costs incurred by the department of justice
16 shall be paid from the appropriation under s. 20.455 (1) (d).

17 **SECTION 8.** 13.90 (2) of the statutes is amended to read:

18 13.90 (2) The cochairpersons of the joint committee on legislative organization
19 or their designated agent shall accept service made under s. ss. 806.04 (11) and
20 893.825 (2). If the committee, the senate organization committee, or the assembly
21 organization committee, determines that the legislature should be represented
22 intervene in the proceeding, that committee shall designate the legislature's
23 representative for the proceeding, as provided under s. 803.09 (2m), the assembly
24 shall represent the assembly, the senate shall represent the senate, and the joint
25 committee on legislative organization shall represent the state. In an action

1 involving the constitutionality of a statute, or challenging a statute as violating or
2 preempted by federal law, if the joint committee on legislative organization
3 determines at any time that the interests of the state will be best represented by
4 special counsel appointed by the legislature, it shall appoint special counsel to
5 represent state defendants and act instead of the attorney general and the attorney
6 general may not participate in the action. Special counsel appointed under this
7 subsection shall have the powers of the attorney general with respect to the litigation
8 to which special counsel has been appointed. The costs of participation in the
9 proceeding shall be paid equally from the appropriations under s. 20.765 (1) (a) and
10 (b), except that such costs incurred by the department of justice shall be paid from
11 the appropriation under s. 20.455 (1) (d).

12 **SECTION 9.** 13.90 (3) of the statutes is renumbered 13.90 (3) (c) and amended
13 to read:

14 13.90 (3) (c) The joint committee on legislative organization shall assign office
15 space for legislative offices and the offices of the legislative service agencies as
16 ~~defined in sub. (1m).~~ The joint committee may assign any space in the capitol not
17 reserved for other uses under s. 16.835. Except as provided in ss. 13.09 (6) and 13.45
18 (4) (c), the joint committee may locate any legislative office or the office of any
19 legislative service agency outside the capitol at another suitable building in the city
20 of Madison.

21 **SECTION 10.** 13.90 (3) (a) and (b) of the statutes are created to read:

22 13.90 (3) (a) In this subsection, "legislative service agency" has the meaning
23 given in sub. (1m).

1 (b) The cochairpersons of the joint committee on legislative organization shall
2 lease or acquire office space for legislative offices or legislative service agencies under
3 par. (c).

4 **SECTION 11.** 15.07 (1) (b) 24. of the statutes is created to read:

5 15.07 (1) (b) 24. The 6 members of the group insurance board appointed under
6 s. 15.165 (2) (j).

7 **SECTION 12.** 15.165 (2) of the statutes is renumbered 15.165 (2) (intro) and
8 amended to read:

9 15.165 (2) GROUP INSURANCE BOARD. (intro.) There is created in the department
10 of employee trust funds a group insurance board. The board shall consist of the
11 following members:

12 (a) The governor, the or his or her designee.

13 (b) The attorney general, the or his or her designee.

14 (c) The secretary of administration, the director of the office of state
15 employment relations, and the or his or her designee.

16 (e) The commissioner of insurance or their designees, and 6 his or her designee.

17 (j) Six persons appointed for 2-year terms, of whom one shall be an insured
18 participant in the Wisconsin Retirement System who is not a teacher, one shall be
19 an insured participant in the Wisconsin Retirement System who is a teacher, one
20 shall be an insured participant in the Wisconsin Retirement System who is a retired
21 employee, one shall be an insured employee of a local unit of government, and one
22 shall be the chief executive or a member of the governing body of a local unit of
23 government that is a participating employer in the Wisconsin Retirement System.

24 **SECTION 13.** 15.165 (2) (d) and (f) to (i) of the statutes are created to read:

1 15.165 (2) (d) The administrator of the division of personnel management in
2 the department of administration or his or her designee.

3 (f) One individual appointed by the speaker of the assembly.

4 (g) One individual appointed by the minority leader of the assembly.

5 (h) One individual appointed by the majority leader of the senate.

6 (i) One individual appointed by the minority leader of the senate.

7 **SECTION 14.** 16.42 (5) of the statutes is created to read:

8 16.42 (5) (a) In this subsection, "fee" means any amount of money other than
9 a tax that an agency charges a person other than a governmental entity.

10 (b) Each agency required to submit a budget request under sub. (1) shall
11 include with its request a report that lists each fee the agency is required or
12 otherwise authorized to charge and that includes all of the following:

13 1. The amount of each fee, or, if a fee does not have a fixed amount, the method
14 of calculating the fee.

15 2. An identification of the agency's statutory authority to charge each fee.

16 3. A statement whether or not the agency currently charges the fee.

17 4. A description of whether and how each fee has increased or decreased since
18 the agency was first authorized to charge the fee.

19 5. Any recommendation the agency has concerning each fee.

20 **SECTION 15.** 16.84 (2m) of the statutes is created to read:

21 16.84 (2m) Send notice to the joint committee on legislative organization of any
22 proposed changes to security at the capitol, including the posting of a firearm
23 restriction under s. 943.13 (1m) (c) 2. or 4. If, within 14 working days after the date
24 of the notice, the cochairpersons of the joint committee on legislative organization do
25 not notify the department that the committee has scheduled a meeting to review the

1 department's proposal, the department may implement the changes as proposed in
2 the notice. If, within 14 working days after the date of the department's notice, the
3 cochairpersons of the committee notify the department that the committee has
4 scheduled a meeting to review the department's proposal, the department may
5 implement the proposed changes only upon approval of the committee.

6 **SECTION 16.** 16.84 (5) (d) of the statutes is repealed.

7 **SECTION 17.** 16.973 (15) of the statutes is created to read:

8 16.973 (15) By October 1 of each year, submit to the joint committee on finance
9 and the legislature under s. 13.172 (2) a report on the administration of the
10 information technology and communication services self-funded portal. The report
11 shall include the following information regarding the portal for the immediately
12 preceding fiscal year:

13 (a) A financial statement of state revenues and expenditures.

14 (b) A list of services available through the portal, identifying services added
15 since the previous reporting period.

16 (c) Fees charged for each service available through the portal.

17 (d) The activity level of each service available through the portal.

18 (e) Any other information the department determines to be appropriate to
19 include.

20 **SECTION 18.** 20.455 (1) (gh) of the statutes is amended to read:

21 20.455 (1) (gh) *Investigation and prosecution.* Moneys received under ss. 23.22
22 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3),
23 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2), for the
24 expenses of investigation and prosecution of violations, including attorney fees, and
25 ~~for expenses related to s. 165.055 (3).~~

1 **SECTION 19.** 20.455 (2) (gb) of the statutes is amended to read:

2 20.455 (2) (gb) *Gifts and grants.* The amounts in the schedule to carry out the
3 purposes for which gifts and grants are made and received. All moneys received from
4 gifts and grants, other than moneys received for and credited to another
5 appropriation account under this subsection, ~~to carry out the purposes for which~~
6 ~~made and received~~ shall be credited to this appropriation account.

7 **SECTION 20.** 20.455 (3) (g) of the statutes is amended to read:

8 20.455 (3) (g) *Gifts, grants and proceeds.* The amounts in the schedule to carry
9 out the purposes for which gifts and grants are made and collected. All moneys
10 received from gifts and grants and all proceeds from services, conferences, and sales
11 of publications and promotional materials ~~to carry out the purposes for which made~~
12 ~~or collected~~, except as provided in sub. (2) (gm) and (gp) and to transfer to s. 20.505
13 (1) (kg), at the discretion of the attorney general, an amount not to exceed \$98,300
14 annually, shall be credited to this appropriation account.

15 **SECTION 21.** 45.57 of the statutes is amended to read:

16 45.57 **Veterans homes; transfer of funding.** The department may transfer
17 all or part of the unencumbered balance of any of the appropriations under s. 20.485
18 (1) (g), (gd), (gk), or (i) to the veterans trust fund or to the veterans mortgage loan
19 repayment fund. The department shall notify the joint committee on finance in
20 writing of any balance transferred under this section.

21 **SECTION 22.** 165.055 (3) of the statutes is repealed.

22 **SECTION 23.** 165.07 of the statutes is created to read:

23 **165.07 Intervention by joint committee on legislative organization.** If
24 the joint committee on legislative organization intervenes in an action in state or
25 federal court as permitted under s. 803.09 (2m), the attorney general shall notify the

1 court of the substitution of counsel by special counsel appointed by the joint
2 committee on legislative organization and may not participate in the action.

3 SECTION 24. 165.08 of the statutes is renumbered 165.08 (1) and amended to
4 read:

5 165.08 (1) Any civil action prosecuted by the department by direction of any
6 officer, department, board, or commission, shall be compromised or discontinued
7 when so directed by such officer, department, board, or commission.

8 (2) Any civil action prosecuted by the department on the initiative of the
9 attorney general, or at the request of any individual may be compromised or
10 discontinued with the approval of the governor by submitting a proposed plan to the
11 joint committee on finance for the approval of the committee. The compromise or
12 discontinuance may occur only if the joint committee on finance approves the
13 proposed plan. No proposed plan may be submitted to the joint committee on finance
14 if the plan concedes the unconstitutionality or other invalidity of a statute, facially
15 or as applied, or concedes that a statute violates or is preempted by federal law,
16 without the approval of the joint committee on legislative organization.

17 (3) In any criminal action prosecuted by the attorney general, the department
18 shall have the same powers with reference to such action as are vested in district
19 attorneys.

20 SECTION 25. 165.10 of the statutes, as created by 2017 Wisconsin Act 59, is
21 amended to read:

22 165.10 ~~Limits on expenditure~~ Deposit of discretionary settlement
23 funds. Notwithstanding s. 20.455 (3), before the ~~The~~ attorney general may expend
24 shall deposit all settlement funds under s. 20.455 (3) (g) that are not committed
25 ~~under the terms of the settlement, the attorney general shall submit to the joint~~

1 ~~committee on finance a proposed plan for the expenditure of the funds. If the~~
2 ~~cochairpersons of the committee do not notify the attorney general within 14 working~~
3 ~~days after the submittal that the committee has scheduled a meeting for the purpose~~
4 ~~of reviewing the proposed plan, the attorney general may expend the funds to~~
5 ~~implement the proposed plan. If, within 14 working days after the submittal, the~~
6 ~~cochairpersons of the committee notify the attorney general that the committee has~~
7 ~~scheduled a meeting for the purpose of reviewing the proposed plan, the attorney~~
8 ~~general may expend the funds only to implement the plan as approved by the~~
9 ~~committee into the general fund.~~

10 **SECTION 26.** 165.25 (1) of the statutes is amended to read:

11 165.25 (1) REPRESENT STATE IN APPEALS AND ON REMAND. Except as provided in
12 ss. 5.05 (2m) (a), 19.49 (2) (a), and 978.05 (5), if the joint committee on legislative
13 organization does not intervene as permitted under s. 803.09 (2m), appear for the
14 state and prosecute or defend all actions and proceedings, civil or criminal, in the
15 court of appeals and the supreme court, in which the state is interested or a party,
16 and attend to and prosecute or defend all civil cases sent or remanded to any circuit
17 court in which the state is a party. Nothing The joint committee on legislative
18 organization may intervene as permitted under s. 803.09 (2m) at any time, and if the
19 committee intervenes, the attorney general shall notify the court of the substitution
20 of counsel by special counsel appointed by the committee to represent the state and
21 may not participate in the action, proceeding, or case. Unless the joint committee on
22 legislative organization intervenes as permitted under s. 803.09 (2m), nothing in this
23 subsection deprives or relieves the attorney general or the department of justice of
24 any authority or duty under this chapter in any other matter.

25 **SECTION 27.** 165.25 (1m) of the statutes is amended to read:

1 165.25 (1m) REPRESENT STATE IN OTHER MATTERS. If the joint committee on
2 legislative organization does not intervene as permitted under s. 803.09 (2m), if
3 requested by the governor or either house of the legislature, appear for and represent
4 the state, any state department, agency, official, employee or agent, whether
5 required to appear as a party or witness in any civil or criminal matter, and prosecute
6 or defend in any court or before any officer, any cause or matter, civil or criminal, in
7 which the state or the people of this state may be interested. The joint committee on
8 legislative organization may intervene as permitted under s. 803.09 (2m) at any
9 time, and if the committee intervenes, the attorney general shall notify the court of
10 the substitution of counsel by special counsel appointed by the committee to
11 represent the state and may not participate in the cause or matter. The public service
12 commission may request under s. 196.497 (7) that the attorney general intervene in
13 federal proceedings. All expenses of the proceedings shall be paid from the
14 appropriation under s. 20.455 (1) (d).

15 **SECTION 28.** 165.25 (6) (a) of the statutes is renumbered 165.25 (6) (a) 1. and
16 amended to read:

17 165.25 (6) (a) 1. At Except as provided in s. 893.825 (2), at the request of the
18 head of any department of state government, the attorney general may appear for
19 and defend any state department, or any state officer, employee, or agent of the
20 department in any civil action or other matter brought before a court or an
21 administrative agency which is brought against the state department, or officer,
22 employee, or agent for or on account of any act growing out of or committed in the
23 lawful course of an officer's, employee's, or agent's duties. Witness fees or other
24 expenses determined by the attorney general to be reasonable and necessary to the
25 defense in the action or proceeding shall be paid as provided for in s. 885.07. The

1 attorney general may compromise and settle the action as the attorney general
2 determines to be in the best interest of the state except that, if the action is for
3 injunctive relief or there is a proposed consent decree, the attorney general may not
4 compromise or settle the action without first submitting a proposed plan to the joint
5 committee on finance. If, within 14 working days after the plan is submitted, the
6 cochairpersons of the committee notify the attorney general that the committee has
7 scheduled a meeting for the purpose of reviewing the proposed plan, the attorney
8 general may compromise or settle the action only with the approval of the committee.
9 The attorney general may not submit a proposed plan to the joint committee on
10 finance under this subdivision in which the plan concedes the unconstitutionality or
11 other invalidity of a statute, facially or as applied, or concedes that a statute violates
12 or is preempted by federal law, without the approval of the joint committee on
13 legislative organization.

14 2. Members, officers, and employees of the Wisconsin state agencies building
15 corporation and the Wisconsin state public building corporation are covered by this
16 section. Members of the board of governors created under s. 619.04 (3), members of
17 a committee or subcommittee of that board of governors, members of the injured
18 patients and families compensation fund peer review council created under s.
19 655.275 (2), and persons consulting with that council under s. 655.275 (5) (b) are
20 covered by this section with respect to actions, claims, or other matters arising
21 before, on, or after April 25, 1990. The attorney general may compromise and settle
22 claims asserted before such actions or matters formally are brought or may delegate
23 such authority to the department of administration. This paragraph may not be
24 construed as a consent to sue the state or any department thereof or as a waiver of
25 state sovereign immunity.

1 **SECTION 29.** 227.05 of the statutes is created to read:

2 **227.05 Agency publications.** An agency shall identify the applicable
3 provision of federal law or the applicable state statutory or administrative code
4 provision that supports any statement or interpretation of law that the agency
5 makes in any publication, whether in print or on the agency's Internet site, including
6 guidance documents, forms, pamphlets, or other informational materials, regarding
7 the laws the agency administers.

8 **SECTION 30.** 227.11 (title) of the statutes is amended to read:

9 **227.11 (title) ~~Extent to which chapter confers~~ Agency rule-making**
10 **authority.** (a)

11 **SECTION 31.** 227.11 (3) of the statutes is created to read:

12 **227.11 (3)** A plan that is submitted to the federal government for the purpose
13 of complying with a requirement of federal law does not confer rule-making
14 authority and cannot be used by an agency as authority to promulgate rules. No
15 agency may agree to promulgate a rule as a component of a compliance plan unless
16 the agency has explicit statutory authority to promulgate the rule at the time the
17 compliance plan is submitted.

18 **SECTION 32.** 227.135 (2) of the statutes is renumbered 227.135 (2) (a) 1. and
19 amended to read:

20 **227.135 (2) (a) 1.** An Except as provided in subd. 2., an agency that has
21 prepared a statement of the scope of the proposed rule shall present the statement
22 to the department of administration, which shall make a determination as to
23 whether the agency has the explicit authority to promulgate the rule as proposed in
24 the statement of scope and shall report the statement of scope and its determination
25 to the governor who, in his or her discretion, may approve or reject the statement of

1 scope. The Except as provided in subd. 2., the agency may not send the statement
2 to the legislative reference bureau for publication under sub. (3) until the governor
3 issues a written notice of approval of the statement. *mar 26-3*

4 (b) The An agency that has prepared a statement of the scope of the proposed
5 rule shall also present the statement to the individual or body with policy-making
6 powers over the subject matter of the proposed rule for approval. The individual or
7 body with policy-making powers may not approve the statement until at least 10
8 days after publication of the statement under sub. (3) and, if a preliminary public
9 hearing and comment period are held by the agency under s. 227.136, until the
10 individual or body has received and reviewed any public comments and feedback
11 received from the agency under s. 227.136 (5).

12 (c) No state employee or official may perform any activity in connection with
13 the drafting of a proposed rule, except for an activity necessary to prepare the
14 statement of the scope of the proposed rule, ~~until the governor and the individual or~~
15 ~~body with policy-making powers over the subject matter of the proposed rule~~
16 approve the statement has been approved as required under pars. (a) and (b). This
17 subsection paragraph does not prohibit an agency from performing an activity
18 necessary to prepare a petition and proposed rule for submission under s. 227.26 (4).

19 **SECTION 33.** 227.135 (2) (a) 2. of the statutes is created to read:

20 227.135 (2) (a) 2. The requirement under subd. 1. does not apply to statements
21 of scope prepared by the department of public instruction.

22 **SECTION 34.** 227.135 (3) of the statutes is amended to read:

23 227.135 (3) ~~If the governor approves a~~ An agency that prepares a statement
24 of the scope of a proposed rule under sub. (2), the agency (1) shall, subject to sub. (2)
25 (a) 1., send an electronic copy of the statement to the legislative reference bureau,

1 in a format approved by the legislative reference bureau, for publication in the
2 register. On the same day that the agency sends the statement to the legislative
3 reference bureau, the agency shall send a copy of the statement to the secretary of
4 administration and to the chief clerks of each house of the legislature, who shall
5 distribute the statement to the cochairpersons of the joint committee for review of
6 administrative rules. The agency shall include with any statement of scope sent to
7 the legislative reference bureau the date of the governor's approval of the statement
8 of scope if such approval is required under sub. (2) (a). The legislative reference
9 bureau shall assign a discrete identifying number to each statement of scope and
10 shall include that number and the date of the governor's approval, if required, in the
11 publication of the statement of scope in the register.

12 **SECTION 35.** 227.137 (2m) of the statutes is created to read:

13 227.137 (2m) An agency's economic impact analysis under sub. (2) or revised
14 economic impact analysis under sub. (4) shall be prepared and submitted separately
15 from any fiscal estimate or revised fiscal estimate prepared and submitted under s.
16 227.14 (4) (a) or (d).

****NOTE: Currently, I believe, agencies typically prepare EIAs and fiscal estimates for rules using a single, combined form designed by DOA. This language would prohibit the use of a combined form going forward.

17 **SECTION 36.** 227.138 (1) (intro.) of the statutes is renumbered 227.138 (1) and
18 amended to read:

19 227.138 (1) The joint committee for review of administrative rules may direct
20 an agency to prepare a retrospective economic impact analysis for any of an agency's
21 rules that are published in the code. The committee may identify one or more specific
22 chapters, sections, or other subunits in the code that are administered by the agency

1 as the rules that are to be the subject of the analysis and may specify a deadline for
2 the preparation of the analysis.

3 **(1r)** A retrospective economic impact analysis shall contain information on the
4 economic effect of the rules on specific businesses, business sectors, public utility
5 ratepayers, local governmental units, and the state's economy as a whole. When
6 preparing the analysis, the agency or person preparing the analysis shall solicit
7 information and advice from businesses, associations representing businesses, local
8 governmental units, and individuals that have been affected by the rules. The
9 agency or person shall prepare the retrospective economic impact analysis in
10 coordination with local governmental units that have been affected by the rules. The
11 agency or person may request information that is reasonably necessary for the
12 preparation of a retrospective economic impact analysis from other businesses,
13 associations, local governmental units, and individuals and from other agencies.
14 The retrospective economic impact analysis shall include all of the following:

15 **SECTION 37.** 227.138 (1) (a) to (h) of the statutes are renumbered 227.138 (1r)
16 (a) to (h).

17 **SECTION 38.** 227.138 (1g) of the statutes is created to read:

18 227.138 **(1g)** Within 90 days after an agency submits a retrospective economic
19 impact analysis under sub. (2), either cochairperson of the joint committee for review
20 of administrative rules may request an independent retrospective economic impact
21 analysis to be prepared using the same procedure and payment methods described
22 under s. 227.137 (4m) (am) and (b). A person preparing an independent retrospective
23 economic impact analysis under this subsection shall prepare the independent
24 retrospective economic impact analysis for the same rules that were the subject of

1 the agency's analysis under sub. (1) and shall include the information that is
2 required under sub. (1r).

3 **SECTION 39.** 227.138 (2) of the statutes is amended to read:

4 227.138 (2) An agency or person that prepares a retrospective economic impact
5 analysis under sub. (1) or (1g) shall submit that analysis to the department of
6 administration, to the governor, and to the chief clerks of each house of the
7 legislature, who shall distribute the analysis to the presiding officers of their
8 respective houses, to the chairpersons of the appropriate standing committees of
9 their respective houses, as designated by those presiding officers, and to the
10 cochairpersons of the joint committee for review of administrative rules. The agency
11 or person shall also send an electronic copy of the analysis to the legislative reference
12 bureau, in a format approved by the legislative reference bureau, for publication in
13 the register.

14 **SECTION 40.** 227.185 of the statutes is amended to read:

15 **227.185 Approval by governor.** After a proposed rule is in final draft form,
16 the agency shall submit the proposed rule to the governor for approval. The governor,
17 in his or her discretion, may approve or reject the proposed rule. If the governor
18 approves a proposed rule, the governor shall provide the agency with a written notice
19 of that approval. No proposed rule may be submitted to the legislature for review
20 under s. 227.19 (2) unless the governor has approved the proposed rule in writing.
21 The agency shall notify the joint committee for review of administrative rules
22 whenever it submits a proposed rule for approval under this section. This section
23 does not apply to proposed rules prepared by the department of public instruction.

24 **SECTION 41.** 227.20 (3) (a) of the statutes is amended to read:

25 227.20 (3) (a) That the rule was ~~duly~~ promulgated by the agency.

1 **SECTION 42.** 227.20 (3) (c) of the statutes is repealed.

 ****NOTE: The presumptions in this section were addressed and discussed in the case *Wisconsin Realtors Association v. Public Service Commission of Wisconsin*, 2015 WI 63, specifically in paragraphs 66 and 67 and footnote 26.

2 **SECTION 43.** 227.24 (1) (e) 1d. of the statutes is amended to read:

3 227.24 (1) (e) 1d. Prepare a statement of the scope of the proposed emergency
4 rule as provided in s. 227.135 (1), obtain approval of the statement as provided in s.
5 227.135 (2), send the statement to the legislative reference bureau for publication in
6 the register as provided in s. 227.135 (3), and hold a preliminary public hearing and
7 comment period if directed under s. 227.136 (1). If the agency changes the scope of
8 a proposed emergency rule as described in s. 227.135 (4), the agency shall prepare
9 and obtain approval of a revised statement of the scope of the proposed emergency
10 rule as provided in s. 227.135 (4). No state employee or official may perform any
11 activity in connection with the drafting of a proposed emergency rule, except for an
12 activity necessary to prepare the statement of the scope of the proposed emergency
13 rule, until the governor approves the statement, if such approval is required, and the
14 individual or body with policy-making powers over the subject matter of the
15 proposed emergency rule ~~approve~~ approves the statement.

16 **SECTION 44.** 227.24 (1) (e) 1g. of the statutes is amended to read:

17 227.24 (1) (e) 1g. Submit the proposed emergency rule in final draft form to the
18 governor for approval. The governor, in his or her discretion, may approve or reject
19 the proposed emergency rule. If the governor approves a proposed emergency rule,
20 the governor shall provide the agency with a written notice of that approval. An
21 agency may not file an emergency rule with the legislative reference bureau as
22 provided in s. 227.20 and an emergency rule may not be published until the governor

1 approves the emergency rule in writing. This subdivision does not apply to proposed
2 emergency rules of the department of public instruction.

3 SECTION 45. 227.26 (2) (im) of the statutes is created to read:

4 227.26 (2) (im) *Multiple suspensions.* Notwithstanding pars. (i) and (j), the
5 committee may act to suspend a rule as provided under this subsection multiple
6 times.

7 SECTION 46. 227.46 (1) (h) of the statutes is amended to read:

8 227.46 (1) (h) ~~Make or recommend~~ Recommend findings of fact, conclusions of
9 law and decisions to the extent permitted by law.

10 SECTION 47. 227.46 (2) of the statutes is amended to read:

11 227.46 (2) Except as provided in sub. (2m) and s. 227.47 (2), in any contested
12 case which is a class 2 or class 3 proceeding, where a majority of the officials of the
13 agency who are to render the final decision are not present for the hearing, the
14 hearing examiner presiding at the hearing shall prepare a proposed decision,
15 including findings of fact, conclusions of law, order and opinion, in a form that may
16 be adopted by the agency as the final decision in the case under s. 227.47 (3). The
17 proposed decision shall be a part of the record and shall be served by the agency on
18 all parties. Each party adversely affected by the proposed decision shall be given an
19 opportunity to file objections to the proposed decision, briefly stating the reasons and
20 authorities for each objection, and to argue with respect to them before the officials
21 who are to participate in the decision. The agency may direct whether such
22 argument shall be written or oral. If an agency's decision varies in any respect from
23 the proposed decision of the hearing examiner, the agency's decision shall include an
24 explanation of the basis for each variance.

25 SECTION 48. 227.46 (2m) of the statutes is amended to read:

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1 227.46 (2m) In any hearing or review assigned to a hearing examiner under
2 s. 227.43 (1) (bg), the hearing examiner presiding at the hearing shall prepare a
3 proposed decision, including findings of fact, conclusions of law, order and opinion,
4 in a form that may be adopted by the agency as the final decision in the case under
5 s. 227.47 (3). The proposed decision shall be a part of the record and shall be served
6 by the division of hearings and appeals in the department of administration on all
7 parties. Each party adversely affected by the proposed decision shall be given an
8 opportunity to file objections to the proposed decision within 15 days, briefly stating
9 the reasons and authorities for each objection, and to argue with respect to them
10 before the administrator of the division of hearings and appeals. The administrator
11 of the division of hearings and appeals may direct whether such argument shall be
12 written or oral. If the decision of the administrator of the division of hearings and
13 appeals varies in any respect from the proposed decision of the hearing examiner, the
14 decision of the administrator of the division of hearings and appeals shall include an
15 explanation of the basis for each variance. The decision of the administrator of the
16 division of hearings and appeals is a final decision of the agency subject to judicial
17 review under s. 227.52. The department of transportation may petition for judicial
18 review.

19 **SECTION 49.** 227.46 (3) (a) of the statutes is repealed.

 ****NOTE: I repealed this as this provision appeared to conflict with your stated
intent of allowing agencies to simply adopt hearing examiner decisions. I believe some
agencies do in fact have rules or practices under this provision whereby a hearing
examiner's decision is considered to be the agency's and this would require a change to
those practices.

20 **SECTION 50.** 227.46 (8) of the statutes is repealed.

 ****NOTE: This provision allows DNR and DOT to file a petition for judicial review
of a decision in a contested case hearing. I have removed it in this draft because we are
requiring the agency to always make its own final decision, and it would no longer seem
to make as much sense for the agency to appeal the decision. Is this OK?

1 **SECTION 51.** 227.47 (1) of the statutes is amended to read:

2 227.47 (1) Except as provided in sub. (2), every proposed ~~or final~~ decision of an
3 ~~agency or a~~ hearing examiner following a hearing and every final decision of an
4 agency shall be in writing accompanied by findings of fact and conclusions of law.
5 The findings of fact shall consist of a concise and separate statement of the ultimate
6 conclusions upon each material issue of fact without recital of evidence. Every
7 proposed or final decision shall include a list of the names and addresses of all
8 persons who appeared before the agency in the proceeding who are considered
9 parties for purposes of review under s. 227.53. The agency shall by rule establish a
10 procedure for determination of parties.

11 **SECTION 52.** 227.47 (3) of the statutes is created to read:

12 227.47 (3) Every final decision of an agency in a contested case shall be
13 approved, signed, and dated by the agency head and shall include a signed
14 certification stating as follows: "I hereby certify that this decision complies with the
15 requirements of chapter 227 of the Wisconsin Statutes and constitutes the final
16 agency action in this matter. I further certify that this decision contains no standard,
17 requirement, or threshold that is not explicitly required or explicitly permitted by
18 statute or a rule that has been lawfully promulgated and that this decision contains
19 no standard, requirement, or threshold that is more restrictive than a standard,
20 requirement, or threshold contained in the Wisconsin Statutes."

21 **SECTION 53.** 230.08 (2) (sb) of the statutes is repealed.

22 **SECTION 54.** 238.02 (1) of the statutes is amended to read:

23 238.02 (1) There is created an authority, which is a public body corporate and
24 politic, to be known as the "Wisconsin Economic Development Corporation." The
25 members of the board shall consist of ~~6~~ ⁴ members nominated by the governor, and

with the advice and consent of the senate appointed, to serve at the pleasure of the governor; ~~3-5~~ ² members appointed by the speaker of the assembly, consisting of one majority and one minority party representative to the assembly, appointed as are the members of standing committees in the assembly, and one person employed in the private sector, to serve at the speaker's pleasure; and ~~3-~~ ³ 4-year terms; one member appointed by the minority leader of the assembly to serve a 4-year term; 5 members appointed by the senate majority leader, ~~consisting of one majority and one minority party senator, appointed as are members of standing committees in the senate, and one person employed in the private sector, to serve at the majority leader's pleasure~~ 4-year terms; and one member appointed by the minority leader of the senate to serve a 4-year term. The secretary of administration and the secretary of revenue shall also serve on the board as nonvoting members. The board shall elect a chairperson from among its nonlegislative voting members. A vacancy on the board shall be filled in the same manner as the original appointment to the board for the remainder of the unexpired term, if any.

SECTION 55. 238.02 (2) of the statutes is amended to read:

238.02 (2) A majority of the ~~voting~~ appointed members of the board currently serving constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, ~~notwithstanding the existence of any vacancies.~~ Action may be taken by the board upon a vote of a majority of the ~~voting~~ appointed members present.

SECTION 56. 238.02 (3) of the statutes is amended to read:

238.02 (3) A chief executive officer shall be nominated by the ~~governor~~ board, and with the advice and consent of the senate appointed, to serve at the pleasure of the ~~governor~~ board. The board may delegate to the chief executive officer any powers

Appoint and

1 and duties the board considers proper. The chief executive officer shall receive such
2 compensation as may be determined by the board.

3 **SECTION 57.** 238.04 (15) of the statutes is created to read:

4 238.04 (15) Notwithstanding s. 230.06 (1) (b), exercise direct supervision of the
5 economic development liaison project position created in 2017 Wisconsin Act 58,
6 section 61 (1).

7 **SECTION 58.** 238.399 (3) (a) of the statutes is amended to read:

8 238.399 (3) (a) The corporation may designate ~~not more than 30~~ any number
9 of enterprise zones in this state.

10 **SECTION 59.** 238.399 (3) (am) of the statutes is created to read:

11 238.399 (3) (am) The corporation may not designate a new enterprise zone
12 under par. (a) except as follows:

13 1. Before the corporation designates a new enterprise zone, the corporation
14 shall notify the joint committee on finance in writing of the corporation's intention
15 to designate a new enterprise zone. The notice shall describe the new zone and the
16 purposes for which the corporation proposes to designate the new zone.

17 2. If, within 14 working days after the date of the corporation's notice under
18 subd. 1., the cochairpersons of the joint committee on finance do not notify the
19 corporation that the committee has scheduled a meeting to review the corporation's
20 proposal, the corporation may designate the new enterprise zone as proposed in the
21 corporation's notice. If, within 14 working days after the date of the corporation's
22 notice under subd. 1., the cochairpersons of the committee notify the corporation that
23 the committee has scheduled a meeting to review the corporation's proposal, the
24 corporation may designate the new enterprise zone only upon approval of the
25 committee.

1 **SECTION 60.** 238.399 (3) (e) of the statutes is repealed.

2 **SECTION 61.** 281.665 (5) (d) of the statutes is amended to read:

3 281.665 (5) (d) Notwithstanding pars. (a) to (c), during the 2017-19 and
4 2019-21 fiscal ~~biennium~~ bienniums, the department shall consider an applicant to
5 be eligible for a cost-sharing grant for a project under this section if the project is
6 funded or executed in whole or in part by the U.S. army corps of engineers under 33
7 USC 701s.

8 **SECTION 62.** 301.03 (16) of the statutes is created to read:

9 301.03 (16) At the request of the legislature, submit to the legislature under
10 s. 13.172 (2) a report that includes the following information and post the report on
11 the department's website:

12 (a) If, since the previous report was submitted or during a date range specified
13 in the request, an individual was pardoned for a crime or was released from a term
14 of imprisonment without completing his or her sentence, the name of the individual,
15 the pertinent crime, and the name of the person who authorized the action.

16 (b) If an individual who appears on a report submitted under this subsection
17 is convicted of a crime, the name of that individual and the crime for which he or she
18 was convicted.

19 **SECTION 63.** 343.165 (8) of the statutes is created to read:

20 343.165 (8) Notwithstanding subs. (1) to (4), for an applicant requesting that
21 an identification card be provided without charge for purposes of voting, all of the
22 following apply:

23 (a) Except as provided in par. (b), if a person is unable to provide proof of name
24 and date of birth, and the documents are unavailable to the person, the person may
25 make a written petition to the department for an exception to the requirements of

1 sub. (1) (a) or (b). The application shall include proof of identity and all of the
2 following:

3 1. A certification of the person's name, date of birth, and current residence
4 street address on the department's form.

5 2. An explanation of the circumstances by which the person is unable to provide
6 proof of name and date of birth.

7 3. Whatever documentation is available that states the person's name and date
8 of birth.

9 (b) 1. If a person applies for and requests an identification card without charge
10 for the purposes of voting and the person's proof of name and date of birth or of proof
11 of citizenship, legal permanent resident status, conditional resident status, or legal
12 presence is unavailable, the person may make a written petition to the department
13 for an exception to the requirement for which proof is unavailable. The department
14 shall provide appropriate translation for any person who is unable to read or
15 understand the petition process instructions and related communications under this
16 subsection or s. 343.50 (1) (c) 2. The petition shall include the person's statement
17 under oath or affirmation of all of the following:

18 a. That the person is unable to provide proof of name and date of birth or proof
19 of citizenship, legal permanent resident status, conditional resident status, or legal
20 presence.

21 b. That the documents are unavailable to the person.

22 c. His or her name, date of birth, place of birth, and such other birth record
23 information requested by the department, or the person's alien or U.S. citizenship
24 and immigration service number or U.S. citizenship certificate number.

1 2. Upon receiving a petition that meets the requirements under subd. 1., the
2 department of transportation shall forward the petition to the central office of its
3 division of motor vehicles for processing. The department of transportation shall
4 provide the person's birth record information to the department of health services,
5 for the sole purpose of verification by the department of health services of the
6 person's birth certificate information or the equivalent document from another
7 jurisdiction, other than a province of the Dominion of Canada, or to a federal agency
8 for the sole purpose of verifying the person's certificate of birth abroad issued by the
9 federal department of state, or of verifying the person's alien or U.S. citizenship and
10 immigration service number or U.S. citizenship certificate number. The department
11 of transportation shall open a file containing the petition and shall create therein a
12 report with a dated record of events, including all communication to or with the
13 applicant. The department of transportation may not complete processing of the
14 application prior to receiving verification under this subdivision, except as provided
15 in subd. 3.

16 3. If the department does not receive verification under subd. 2. within 30 days
17 or receives notice under subd. 2. that the birth information provided in the
18 application does not match that of the birth record custodian, the department shall
19 promptly notify the person in writing of that failure to verify and request the person
20 contact the department within 10 days. If the person does not respond within 10
21 days, the department shall send the person a 2nd letter with substantially similar
22 contents. If the person does not respond to the 2nd letter within 10 days and the
23 department knows the person's telephone number, the department shall call the
24 person on the telephone and notify the person that the birth information was not
25 verified and request the person provide additional information within 10 days. If 30

1 days have elapsed since the date of the first letter sent under this subdivision without
2 contact from the person, the department shall suspend the investigation and send
3 written notice that the person has not responded, that the department has no further
4 leads for it to locate or obtain secondary documentation or verification of birth
5 information, that the department has suspended its investigation or research until
6 such time as the person contacts the department, and that if within 180 days after
7 the date of the written notice the person fails to contact the department the petition
8 will be denied and no further identification card receipts will be issued under s.
9 343.50 (1) (c) 2. If the person fails to contact the department within 180 days after
10 the department suspends the investigation, the department shall deny the petition
11 in writing and shall inform the person that the department will resume the
12 investigation if the person contacts the department to discuss the petition.
13 Whenever the applicant contacts the department to discuss the petition, the
14 investigation under this subdivision shall begin anew, notwithstanding any prior
15 denial due to the person's failure to timely respond. The applicant shall act in good
16 faith and use reasonable efforts to provide additional information that could
17 reasonably lead the department to discover correct birth information or secondary
18 documentation as described in subd. 3g., to assist the department in processing the
19 application. The department shall investigate the petition and any additional
20 information provided under this subdivision with prompt and due diligence and shall
21 use reasonable efforts to locate and obtain the secondary documentation by pursuing
22 leads provided by the person. Investigations may only be completed within the
23 division of motor vehicles' central office by employees whose regular job duties
24 include investigation and fraud detection and prevention. If the investigation
25 discovers new or corrected birth information, the department of transportation shall

1 resubmit the new or corrected birth information to the department of health services
2 for verification under subd. 2. The department of transportation shall pay any
3 actual, necessary fees required by the record custodian to obtain the secondary
4 documentation.

5 3g. If the department of health services does not verify the birth record
6 information within 30 days, the department of transportation may issue an
7 identification card to the person only if the department of transportation receives
8 verification under subd. 2., if the person provides proof of name and date of birth or
9 proof of citizenship, legal permanent resident status, conditional resident status or
10 legal presence, or if the department of transportation receives other secondary
11 documentation acceptable to the department of transportation and deemed
12 sufficient under subd. 3., which may include the following:

- 13 a. Baptismal certificate.
- 14 b. Hospital birth certificate.
- 15 c. Delayed birth certificate.
- 16 d. Census record.
- 17 e. Early school record.
- 18 f. Family Bible record.
- 19 g. Doctor's record of post-natal care.
- 20 h. Other documentation deemed acceptable to the department of
21 transportation, within the department's reasonable discretion.

22 4. In this paragraph, "proof of citizenship, legal permanent resident status,
23 conditional resident status or legal presence" means any of the following:

- 24 a. A U.S. state or local government issued certificate of birth.
- 25 b. Valid U.S. passport.

1 c. Valid foreign passport with appropriate immigration documents, which shall
2 include or be accompanied by federal form I-94, arrival and departure record.

3 d. Certificate of U.S. citizenship.

4 e. A U.S. Certificate of naturalization.

5 f. Valid department of homeland security/U.S. citizenship and immigration
6 services federal form I-551, resident alien registration receipt card, issued since
7 1997.

8 g. Valid department of homeland security/U.S. citizenship and immigration
9 services federal form I-688, temporary resident identification card.

10 h. Valid department of homeland security/U.S. citizenship and immigration
11 services federal form I-688B or I-766, employment authorization document.

12 i. Valid department of homeland security/U.S. citizenship and immigration
13 services federal form I-571, refugee travel document.

14 j. Department of homeland security/U.S. citizenship and immigration services
15 federal form I-797, notice of action.

16 k. Department of homeland security/transportation security administration
17 transportation worker identification credential.

18 L. A U.S. department of state reception and placement program assurance
19 form (refugee version), which shall include or be accompanied by federal form I-94,
20 arrival and departure record.

21 m. Documentary proof specified in s. 343.14 (2) (es), that is approved by the
22 appropriate federal authority.

23 5. In this paragraph, "proof of identity" means a supporting document
24 identifying the person by name and bearing the person's signature, a reproduction

1 of the person's signature, or a photograph of the person. Acceptable supporting
2 documents include:

3 a. A valid operator's license, including a license from another jurisdiction,
4 except a province of the Dominion of Canada, bearing a photograph of the person.

5 b. Military discharge papers.

6 c. A U.S. government and military dependent identification card.

7 d. A valid photo identification card issued by Wisconsin or another jurisdiction,
8 except a province of the Dominion of Canada, bearing a photograph of the person.

9 e. A marriage certificate or certified copy of judgment of divorce.

10 f. A social security card issued by the social security administration.

11 g. Any document described under subd. 6., if it bears a photograph of the person
12 and was not used as proof of name and date of birth.

13 h. Department of homeland security/transportation security administration
14 transportation worker identification credential.

15 6. In this paragraph, "proof of name and date of birth" means any of the
16 following:

17 a. For a person born in Wisconsin, a copy of the person's Wisconsin birth
18 certificate issued and certified in accordance with s. 69.21.

19 b. For a person born in another jurisdiction, other than a province of the
20 Dominion of Canada, a certified copy of his or her birth certificate or the equivalent
21 document from that other jurisdiction or a certificate of birth abroad issued by the
22 federal department of state.

23 c. A U.S. passport.

24 d. A valid, unexpired passport issued by a foreign country with federal I-551
25 resident alien registration receipt card or federal I-94 arrival and departure record

1 that bears a photograph of the person and identifies the person's first and last names,
2 and the person's day, month, and year of birth.

3 e. A Wisconsin operator's license bearing a photograph of the person.

4 f. A Wisconsin identification card issued under s. 343.50, bearing a photograph
5 of the person, other than an identification card issued under s. 343.50 (1) (c) 2.

6 g. A federal I-551 "permanent resident alien registration receipt card."

7 h. A federal I-94 "parole edition" or "refugees version" arrival-departure
8 record, together with a certification, on the department's form, by the person, of the
9 person's name and date of birth, a copy of a federal department of state refugee data
10 center reception and placement program assurance form and a letter from the
11 person's sponsoring agency on its letterhead, supporting the person's application for
12 a Wisconsin identification card or operator's license and confirming the person's
13 identification. Applicants who are unable to provide a reception and placement
14 program assurance form may be issued a Wisconsin identification card or operator's
15 license, but only after their identification has been confirmed by the U.S. citizenship
16 and immigration services.

17 i. A U.S. certificate of naturalization.

18 j. A certificate of U.S. citizenship.

19 k. A federal temporary resident card or employment authorization card, I-688,
20 I-688A, I-688B, and I-766.

21 L. A Native American identification card that is issued by a federally
22 recognized tribe or a band of a federally recognized tribe, is issued in Wisconsin,
23 includes a photograph and signature or reproduction of a signature of the person, and
24 has been approved by the secretary for use as identification.

1 m. A court order under seal related to the adoption or divorce of the individual
2 or to a name or gender change that includes the person's current full legal name, date
3 of birth, and, in the case of a name change or divorce order, the person's prior name.

4 n. An armed forces of the U.S. common access card or DD Form 2 identification
5 card issued to military personnel.

6 o. Department of homeland security/transportation security administration
7 transportation worker identification credential.

8 7. In this paragraph, "unavailable" means that the applicant does not have the
9 document and would be required to pay a government agency to obtain it.

10 (c) The administrator may delegate to the deputy administrator or to a bureau
11 director, as described in s. 15.02 (3) (c) 2., whose regular responsibilities include
12 driver licensing and identification card issuance, the authority to accept or reject
13 such extraordinary proof of name, date of birth, or U.S. citizenship under this
14 subsection.

15 (e) The denial of a petition under par. (b) is subject to judicial review in the
16 manner provided in ch. 227 for the review of administrative decisions.

17 (f) If the administrator, or delegate described in par. (c), determines that an
18 applicant has knowingly made a false statement or knowingly concealed a material
19 fact or otherwise committed a fraud in an application, petition, or additional
20 information, the department shall immediately suspend the investigation, shall
21 notify the person in writing of the suspension and the reason for the suspension, and
22 refer any suspected fraud to law enforcement.

23 (g) A person whose petition is suspended or denied due to a failure to respond
24 timely may revive the petition at any time by contacting the department to discuss
25 the petition application. If a person revives a petition, the department shall

1 immediately issue, and shall continue to reissue, an identification card receipt to the
2 person as provided in s. 343.50 (1) (c) 2., except that the department shall first
3 require the person to take a photograph if required under s. 343.50 (1) (c) 2.

4 (h) The department shall grant a petition if the department concludes, on the
5 basis of secondary documentation or other corroborating information, that it is more
6 likely than not that the name, date of birth, and U.S. citizenship provided in the
7 application is correct.

8 **SECTION 64.** 343.50 (1) (c) of the statutes is renumbered 343.50 (1) (c) 1. and
9 amended to read:

10 343.50 (1) (c) 1. The department may issue a receipt to any applicant for an
11 identification card, and shall issue a receipt to an applicant requesting an
12 identification card under sub. (5) (a) 3., which receipt shall constitute a temporary
13 identification card while the application is being processed and shall be valid for a
14 period not to exceed 60 days. If the application for an identification card is processed
15 under the exception specified in s. 343.165 (7) or (8), the receipt shall include the
16 marking specified in sub. (3) (b).

17 **SECTION 65.** 343.50 (1) (c) 2. of the statutes is created to read:

18 343.50 (1) (c) 2. If the department issues a receipt to an applicant petitioning
19 the department under s. 343.165 (8), all of the following apply:

20 a. The department shall issue the receipt not later than the 6th working day
21 after the person made the petition and shall deliver the receipt by 1st class mail,
22 except that if a petition is filed or revived within 7 days before or 2 days after a
23 statewide election the department shall issue a receipt not later than 24 hours after
24 the petition is filed or revived and shall deliver the receipt by overnight or next-day
25 mail. The department shall issue a new receipt to the person not later than 10 days

1 before the expiration date of the prior receipt, and having a date of issuance that is
2 the same as the expiration date of the prior receipt. The department shall issue no
3 receipt to a person after the denial of a petition under s. 343.165 (8), unless the person
4 revives an investigation. The department shall continue to reissue identification
5 card receipts to a person unless the department cancels the identification card
6 receipt upon the circumstances specified in sub. (10), upon the issuance of an
7 operator's license or identification card to the person, upon the person's request,
8 upon the denial of the application, upon return to the department of a receipt as
9 nondeliverable, upon the person's failure to contact the department to discuss the
10 petition for a period of 180 days or more, or whenever the department receives
11 information that prohibits issuance of an identification card under sub. (1) (c). The
12 department shall require the person to take a photograph prior to reissuing an
13 identification card receipt if the photograph of the person on file with the department
14 is 8 or more years old.

15 b. An identification card receipt issued under this subdivision shall constitute
16 a temporary identification card while the application is being processed under s.
17 343.165 (8) and shall be valid for a period not to exceed the period specified in sub.
18 (1) (c). The department shall clearly mark the receipt "FOR VOTING PURPOSES
19 ONLY" as validated for use for voting as provided in ss. 5.02 (6m) (d) and 6.79 (2) (a).
20 A receipt issued under this subsection shall contain the information specified under
21 s. 343.17 (3), including the date of issuance, the expiration date, the name and
22 signature of the person to whom it was issued, and, except as authorized in sub. (4g),
23 a photograph of the individual to whom it was issued, and may contain such further
24 information as the department deems necessary.

1 c. The department shall issue a replacement identification card receipt under
2 subd 1. a. upon request of the person to whom it is issued if the receipt is lost or
3 destroyed.

4 d. Notwithstanding subd. 2. a., the department shall cancel or refuse to issue
5 an identification card receipt under this subsection upon the circumstances specified
6 in sub. (10), upon the issuance of an operator's license or identification card to the
7 person, upon the person's request, upon the denial of the application, upon return to
8 the department of a receipt as nondeliverable, or whenever the department receives
9 information that prohibits issuance of an identification card under subd. 1.

10 e. Whenever any person, after receiving an identification card receipt under
11 this subdivision, moves from the address named in the application or in the receipt
12 issued to him or her or is notified by the local authorities or by the postal authorities
13 that the address so named has been changed, the person shall, within 30 days, notify
14 the department of his or her change of address. Upon receiving a notice of change of
15 address, the department shall promptly issue a new receipt under subd. 2. a. showing
16 the correct address and having the expiration date of the prior receipt.

17 **SECTION 66.** 343.50 (3) (b) of the statutes is amended to read:

18 343.50 (3) (b) If an identification card is issued based upon the exception
19 specified in s. 343.165 (7) or (8), the card shall, in addition to any other required
20 legend or design, be of the design specified under s. 343.17 (3) (a) 14. and include a
21 marking similar or identical to the marking described in s. 343.03 (3r).

22 **SECTION 67.** 343.50 (3) (c) of the statutes is created to read:

23 343.50 (3) (c) 1. Notwithstanding par. (a), the department may issue an
24 identification card bearing a name other than the name that appears on a supporting
25 document if the person provides evidence acceptable to the department that the

1 person has used the name in a manner that qualifies the name as being legally
2 changed under the common law of Wisconsin, including evidence of the person's prior
3 name, changed name, the length of time the person has consistently and
4 continuously used the changed name, an affirmation that the person no longer uses
5 the prior name, and an affirmation that the person did not change his or her name
6 for a dishonest or fraudulent purpose or to the injury of any other person. The
7 department shall mark an identification card issued under this subdivision in the
8 manner described in s. 343.03 (3r).

9 2. Notwithstanding par. (a), the department shall approve a name change
10 requested by a person who cannot provide supporting documentation of a lawful
11 change of name but who does one of the following:

12 a. Provides proof of identity in the new name, and the department receives from
13 the federal social security administration evidence or confirmation of the name
14 change.

15 b. Applies for an identification card and provides an affidavit declaring all facts
16 required under subd. 1. to prove a name change under the common law of Wisconsin.

17 **SECTION 68.** 803.09 (2m) of the statutes is created to read:

18 803.09 (2m) When a party to an action challenges in state or federal court the
19 constitutionality of a statute, facially or as applied, or challenges a statute as
20 violating or preempted by federal law, as part of a claim or affirmative defense, the
21 assembly, the senate, and the state legislature may intervene at any time in the
22 action as a matter of right by serving a motion upon the parties as provided in s.
23 801.14.

24 **SECTION 69.** 806.04 (11) of the statutes is amended to read:

1 806.04 (11) PARTIES. When declaratory relief is sought, all persons shall be
2 made parties who have or claim any interest which would be affected by the
3 declaration, and no declaration may prejudice the right of persons not parties to the
4 proceeding. In any proceeding which involves the validity of a municipal ordinance
5 or franchise, the municipality shall be made a party, and shall be entitled to be heard.
6 If a statute, ordinance or franchise is alleged to be unconstitutional, or to be in
7 violation of or preempted by federal law, the attorney general shall also be served
8 with a copy of the proceeding and, except as provided under this subsection, be
9 entitled to be heard. If a statute is alleged to be unconstitutional, or to be in violation
10 of or preempted by federal law, the speaker of the assembly, the president of the
11 senate, and the senate majority leader shall also be served with a copy of the
12 proceeding, and the assembly, the senate, and the state legislature are entitled to be
13 heard. If the assembly, the senate, or the joint committee on legislative organization
14 intervenes as provided under s. 803.09 (2m), the assembly shall represent the
15 assembly, the senate shall represent the senate, and the joint committee on
16 legislative organization shall represent the state. In an action involving the
17 constitutionality of a statute, or challenging a statute as violating or preempted by
18 federal law, if the joint committee on legislative organization determines at any time
19 that the interests of the state will be best represented by special counsel appointed
20 by the legislature, it shall appoint special counsel to represent state defendants and
21 act instead of the attorney general and the attorney general may not participate in
22 the action. Special counsel appointed under this subsection shall have the powers
23 of the attorney general with respect to the litigation to which special counsel has been
24 appointed. In any proceeding under this section in which the constitutionality,
25 construction or application of any provision of ch. 227, or of any statute allowing a

1 legislative committee to suspend, or to delay or prevent the adoption of, a rule as
2 defined in s. 227.01 (13) is placed in issue by the parties, the joint committee for
3 review of administrative rules shall be served with a copy of the petition and, with
4 the approval of the joint committee on legislative organization, shall be made a party
5 and be entitled to be heard. ~~In any proceeding under this section in which the~~
6 ~~constitutionality, construction or application of any provision of ch. 13, 20, 111, 227~~
7 ~~or 230 or subch. I, III or IV of ch. 16 or s. 753.075, or of any statute allowing a~~
8 ~~legislative committee to suspend, or to delay or prevent the adoption of, a rule as~~
9 ~~defined in s. 227.01 (13) is placed in issue by the parties, the joint committee on~~
10 ~~legislative organization shall be served with a copy of the petition and the joint~~
11 ~~committee on legislative organization, the senate committee on organization or the~~
12 ~~assembly committee on organization may intervene as a party to the proceedings and~~
13 ~~be heard.~~

14 **SECTION 70.** 809.13 of the statutes is amended to read:

15 **809.13 Rule (Intervention).** A person who is not a party to an appeal may
16 file in the court of appeals a petition to intervene in the appeal. A party may file a
17 response to the petition within 11 days after service of the petition. The court may
18 grant the petition upon a showing that the petitioner's interest meets the
19 requirements of s. 803.09 (1) ~~or~~, (2), or (2m).

20 **SECTION 71.** Subchapter VIII (title) of chapter 893 [precedes 893.80] of the
21 statutes is amended to read:

22 **CHAPTER 893**

23 **SUBCHAPTER VIII**

24 **CLAIMS AGAINST GOVERNMENTAL**

25 **BODIES, OFFICERS AND EMPLOYEES;**

ACTIONS ALLEGING A STATUTE IS
UNCONSTITUTIONAL OR
OTHERWISE INVALID

SECTION 72. 893.825 of the statutes is created to read:

893.825 Actions alleging a statute is unconstitutional or in violation of or preempted by federal law. (1) In an action in which a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, the attorney general shall be served with a copy of the proceeding and, except as provided in sub. (2), is entitled to represent the state and be heard.

(2) In an action in which a statute is alleged to be unconstitutional, or to be in violation of or preempted by federal law, the speaker of the assembly, the president of the senate, and the senate majority leader shall also be served with a copy of the proceeding and the assembly, the senate, and the joint committee on legislative organization are entitled to be heard.

SECTION 73. Nonstatutory provisions.

X (1) INTERVENTION BY ASSEMBLY, SENATE, AND JOINT COMMITTEE ON LEGISLATIVE ORGANIZATION. The assembly, senate, and joint committee on legislative organization may intervene as permitted under s. 803.09 (2m) in any litigation pending in state or federal court on the effective date of this subsection. If the joint committee on legislative organization intervenes and appoints special counsel to represent state defendants as set forth under s. 806.04 (11) or 893.825, the attorney general shall notify the court of the substitution of counsel by special counsel appointed by the joint committee on legislative organization to represent the state defendants and may not participate in the action.

SECTION 74. Fiscal changes.

(1) SETTLEMENT FUNDS. Notwithstanding s. 20.001 (3) (c), from the appropriation account under s. 20.455 (3) (g), on the effective date of this subsection, there is lapsed to the general fund the unencumbered balance of any settlement funds in that appropriation account, as determined by the attorney general.

SECTION 75. Initial applicability.

AGENCY PUBLICATIONS
(3) The treatment of s. 227.05 with respect to printed publications first applies to guidance documents, forms, pamphlets, or other informational materials that are printed 60 days after the effective date of this subsection.

SECTION 76. Effective date.

The treatment of ss. 89.54 and 86.51 and
(1) This act takes effect on the first day of the 7th month beginning after publication. *REQUIREMENTS FOR THE BUDGET PROCESS*

****NOTE: I added an effective date as a placeholder to give agencies enough time to update their materials. Is this OK?

Department of Justice gifts and grants, etc.
(2) Notwithstanding s. 20.001 (2) (b), any moneys encumbered under the appropriation accounts under s. 20.455 (2) (gb) and (3) (g) before the effective date of this subsection may be expended pursuant to the terms of the encumbrance.

SECTION 77. Initial applicability.

(4) The treatment of s. 15.07 (1) (b) 24. first applies to a member of the group insurance board who is appointed by the governor on the effective date of this subsection. *GROUP INSURANCE BOARD*

(5) OFFICE OF SOLICITOR GENERAL POSITIONS. In the schedule under s. 20.005 (3) for the appropriation to the department of justice under s. 20.455 (1) (gh), the dollar amount for fiscal year 2018-19 is decreased by \$320,000 to decrease the authorized FTE positions for the department by 1.0 PR solicitor general position and 3.0 PR deputy solicitor general positions on January 1, 2019.

WEDC;

initial

1 **SECTION 78. Nonstatutory provisions.**

2 (7) ~~STAGGERING OF TERMS~~. Notwithstanding the length of terms specified for the
3 members of the board of directors of the Wisconsin Economic Development
4 Corporation under s. 238.02 (1), the initial members appointed by the speaker and
5 minority leader of the assembly and the majority leader and minority leader of the
6 senate beginning on the effective date of this subsection shall be appointed for terms
7 expiring as follows:

8 (a) The terms of 2 members appointed by the speaker of the assembly and 2
9 members appointed by the senate majority leader shall expire on October 1, 2020.

10 (b) The terms of 2 members appointed by the speaker of the assembly, the
11 9 member appointed by the assembly minority leader, 2 members appointed by the
12 senate majority leader, and the member appointed by the senate minority leader,
13 shall expire on October 1, 2022.

14 (c) The terms of one member appointed by the speaker of the assembly and one
15 member appointed by the senate majority leader shall expire on October 1, 2024.

WEDC;

16 (8) ~~CURRENT MEMBERS~~ ^{board}. The members of the board of directors of the Wisconsin
17 Economic Development Corporation serving at the pleasure of the speaker of the
18 assembly and senate majority leader on the day before the effective date of this
19 subsection shall continue to serve at pleasure pending the appointment of members
20 under sub. (7), but may not serve after January 6, 2019, unless appointed under sub.
21 (7).

22 **SECTION 79. Initial applicability.**

23 (10) ~~STATEMENT OF SCOPE OR PROPOSED RULES~~
24 The renumbering and amendment of s. 227.135 (2), and the creation of s. 227.135 (2)
25 (a) 2. first apply to a proposed rule or emergency rule whose statement of scope is

1 submitted to the legislative reference bureau for publication under s. 227.135 (3) on
2 the effective date of this subsection.

3 **SECTION 80. Initial applicability.**

4 X (12) FINAL DECISION OF AN AGENCY. The treatment of ss. 227.46 (1) (h), (2), (2m),
5 (3) (a) and (8) and 227.47 (1) and (3) first applies to requests for hearings made on
6 the effective date of this subsection.

7 (END)

the scope of the proposed rule (scope statement). A scope statement must be submitted to the Department of Administration for a determination as to whether the agency has the explicit authority to promulgate the rule as proposed in the scope statement. DOA must then report the statement and its determination to the governor who, in his or her discretion, may approve or reject the scope statement. Also under current law, after a proposed administrative rule, including an emergency rule, is in final draft form, the agency promulgating the proposed rule must submit the proposed rule to the governor, who may approve or reject the proposed rule. No agency may promulgate an administrative rule without the written approval of the governor.

In *Coyne v. Walker*, 2016 WI 38, the Wisconsin Supreme Court held that provisions requiring gubernatorial approval of scope statements and rules are unconstitutional as applied to the superintendent of public instruction.

Consistent with the result in *Coyne*, this bill exempts rules promulgated by the Department of Public Instruction from the requirements that a) a scope statement be submitted to DOA for a determination of authority and that the scope statement be approved by the governor and b) a proposed rule in final draft form be submitted to the governor and that the governor approve the rule in writing.

3.

The bill a) requires committees appointed by agencies to provide advice with respect to rule making to submit a list of the members of the committee to JCRAR; b) makes various changes with respect to the required content and preparation of statements of scope and EIAs for rules, including mandating minimum comment periods for EIAs for rules; c) prohibits an agency from submitting a statement of scope for a proposed rule to the LRB for publication in the register more than 30 days after the date of the governor's approval of the statement of scope without the approval of the governor; and d) codifies current practice by allowing an agency that intends to concurrently promulgate an emergency rule and a permanent rule that are identical in substance to submit one statement of scope indicating this intent.

4.

This bill allows the legislature to request an independent retrospective economic impact analysis (EIA) for a rule.

Under current law, either cochairperson of the Joint Committee for Review of Administrative Rules may request an independent EIA for a proposed rule after an agency submits its EIA for that proposed rule. Such a request by the senate cochairperson of JCRAR requires approval by the Committee on Senate Organization, and a request by the assembly cochairperson requires approval by the Committee on Assembly Organization. Current law requires the requester to enter into a contract to perform the independent EIA, and requires the analysis to be completed within 60 days after entering into the contract. Under current law, an independent EIA is paid for by the agency if the independent EIA's cost estimate for the proposed rule varies by 15 percent or more from the agency's EIA, and is paid for by the legislature if the independent EIA's cost estimate for the proposed rule varies by less than 15 percent from the agency's EIA.

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